

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #11	CCRB Case #: 201903031	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/01/2019 8:20 PM	Location of Incident: Lenox Avenue and West 135th Street	Precinct: 32	18 Mo. SOL 10/1/2020	EO SOL 5/18/2021	
Date/Time CV Reported Mon, 04/01/2019 8:49 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/08/2019 11:03 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Carlos Castillo	19775	943064	032 PCT
2. An officer			032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Aditya Kanojia	04779	950661	032 PCT
2. POM Zachariah Flaiz	25580	953864	032 PCT
3. POM Joshua Polo	00489	966280	032 PCT
4. POM Peter Montalbano	19486	953129	032 PCT
5. POM Emmanuel Ortiz	08441	964689	032 PCT
6. SGT John Keane	04227	935094	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
B. POM Carlos Castillo	Discourtesy: Police Officer Carlos Castillo spoke discourteously to § 87(2)(b)	

### Case Summary

On April 1, 2019, § 87(2)(b) Adolpus filed this complaint with IAB over the phone. This case was received at the CCRB on April 8, 2019.

On April 1, 2019, § 87(2)(b) called 911 after having a dispute with Harlem Hospital Center Police in which they took his phone from him. PO Carlos Castillo, PO Joshua Polo, Sgt. Aditya Kanojia, PO Zachariah Flaiz, PO Emmanuel Ortiz, and PO Peter Montalbano, all of the 32<sup>nd</sup> Precinct, responded to the location. PO Castillo and PO Polo went inside to peak with a hospital police officer. § 87(2)(b) asked an unidentified NYPD officer how the hospital police officer could get away with taking his phone. An unidentified officer told § 87(2)(b) that he and the hospital police officer would simply make allegations against each other and, “You know what’s going to fucking happen,” (**Allegation A: Discourtesy**, § 87(2)(g)). PO Castillo and PO Polo walked out of the hospital. PO Castillo gave § 87(2)(b) his phone back. § 87(2)(b) asked if that was all that was going to happen. PO Castillo allegedly responded, “What the fuck did you expect?” (**Allegation B: Discourtesy**, § 87(2)(g)). The officers left the location. No arrests were made, and no summonses were issued.

The only video of this incident that was received was Body-Worn-Camera (BWC) footage from Sgt. John Keane, who responded after this incident when he called 911 to file a complaint. The video only captures § 87(2)(b) telling Sgt. Keane about his dispute with hospital police and does not mention any FADO allegations.

### Findings and Recommendations

#### **Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) (Board Review 01) described the NYPD officer who told him, “You know what’s going to fucking happen,” as a Hispanic male, in uniform, with spikey hair. § 87(2)(b) was unable to provide a more detailed description of the officer.

PO Castillo (Board Review 02), PO Polo (Board Review 03), and PO Ortiz (Board Review 04) were the only Hispanic male officers who responded to this incident and all denied that they told § 87(2)(b) “You know what’s going to fucking happen.” PO Castillo, PO Polo, and PO Ortiz all denied using profanity while speaking with § 87(2)(b). None of these officers had “spikey” hair as described by § 87(2)(b).

Sgt. Kanojia’s (Board Review 05) PO Zachariah Flaiz’s (Board Review 08), and PO Peter Montalbano’s (Board Review 09) testimonies were consistent with that of PO Castillo, PO Polo, and PO Ortiz.

§ 87(2)(g)

#### **Allegation (B) Discourtesy: Police Officer Carlos Castillo spoke discourteously to § 87(2)(b)**

This allegation was pleaded against PO Castillo as it is undisputed that he gave § 87(2)(b) his phone back. PO Castillo also matches the description of the subject officer provided by § 87(2)(b).

§ 87(2)(b) stated that PO Castillo obtained his phone from the hospital police officer inside the hospital. After PO Castillo gave § 87(2)(b) his phone, § 87(2)(b) asked him if that was all that was going to happen. PO Castillo responded, “What the fuck you expect?”

PO Castillo stated that he returned § 87(2)(b) phone to him, but § 87(2)(b) was unsatisfied with only getting his phone back. PO Castillo told § 87(2)(b) that no crime occurred, and that he should call 911 if he had any other issues. PO Castillo did not recall using any profanity while speaking with § 87(2)(b). PO Castillo denied that he told § 87(2)(b) “What the fuck you expect.”

Sgt. Kanojia's PO Zachariah Flaiz's, and PO Peter Montalbano's testimonies were consistent with that of PO Castillo, PO Polo, and PO Ortiz.

There was no video or audio recordings of this allegation. There were no independent witnesses to this allegation.

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Castillo has been a member of the service for 13 years and has been a subject in five complaints and six allegations, none of which were substantiated.
  - 201603241 involved an allegation of discourtesy – word, which was closed as unsubstantiated.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A FOIL request was submitted to the Office of the NYC Comptroller on August 7, 2020 and was still pending. Any response will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 11

Investigator:	<u>William P. MacLure</u>	<u>Inv. William P MacLure</u>	<u>August 10, 2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Edwin Pena</u>	<u>IM Edwin Pena</u>	<u>08/11/20</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date